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General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
300 Renaissance Center
P.O. Box 300
Detroit, MI 48265-3000

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/767,237
Filing Date: January 28, 2004
Appellant(s): KAMDAR ET AL.

Julia Church Dierker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 20 December 2006 appealing from the Office action mailed 14 March 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2003/0208522 A1	McDONNELL et al.	11-2003
US 2003/0139179 A1	FUCHS et al.	7-2003
US 6,006,091	LUPIEN	12-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1-8, 11-17, 19, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonnell et al. (US 2003/0208522 A1) in view of Fuchs et al. (US 2003/0139179 A1).

Regarding claim 1, McDonnell discloses a method for wireless network data collection utilizing a telematics unit within a mobile vehicle communication system, the method comprising:

detecting at least one wireless short-distance communication network identification signal (Abstract, lines 1-12; P.0028, lines 1-11; as a user moves along the coverage zone of the portals, e.g. business premises, his/her wireless device detects beacons signals from the portals that alert nearby compatible systems of their presence);

generating wireless network information based on the at least one detected wireless network identification signals (P.0028, lines 8-17); and

communicating the generated wireless network information to a service provider (Abstract, lines 9-16; P.0022; P.0028, lines 13-20; programs in the wireless device forms an structured information (e.g. identity of the business, location of portal, and services available) into a message that transmits through the cellular subsystem to a database service system).

However, McDonnell fails to disclose wherein the at least one wireless short distance network communication signal is detected at a vehicle system module which includes software and hardware components for operating, controlling or monitoring one or more vehicle systems, and the vehicle system module coupled to a vehicle communication bus.

Fuchs teaches an apparatus for integrating a personal communications system with a telematics device within a vehicle, which is known to deliver wide spectrum of information to vehicle-based subscribers (p.0001, lines 1-10). The telematics device is coupled to and integrated with the vehicle such as a car, bus, train, aircraft and the like, and includes a processor and algorithms for processing algorithms stored in the memory (p.0019) and is coupled to vehicle electrical bus to communicate and exchange data with at least one vehicle system (i.e. door-locking, comfort features, etc.) for controlling, operating, or configuring, communication status of at least one vehicle system. Also comprises a first wireless interface for communicating over a WAN network and a second wireless interface for communicating over a WLAN network (p.0024), and couples with a remote device (i.e. cellular phone, PDA, etc) and a communications node to integrate with a personal communications system (Fig. 1; p.0018).

Therefore, it would have been obvious to one having ordinary skill in the skill in the art, to modify McDonnell's invention with the teachings of Fuchs to integrate the user's wireless device

with a telematics system for detecting and gathering information from beacons while a user is in a vehicle, because a vehicle will allow the travel across a wide area for gathering information in a short amount of time, and using the same system for in-vehicle and personal communications (p.0001-0003).

Regarding claim 2, the combination of McDonnell and Fuchs disclose the method of claim 1, McDonnell discloses wherein detecting the at least one wireless short-distance communication network identification signal comprises:

receiving at least one wireless short-distance communication network identification signal (P.0028, lines 1-11; the wireless communication device receives a presence signal from the portal, e.g. business premises);

determining a unique device identifier associated with each received wireless short-distance communication network identification signal (P.0028, lines 1-17; the mobile device request from the portal structured information, e.g. identity of the business); and

storing the determined unique device identifier (P.0030).

Regarding claim 3, the combination of McDonnell and Fuchs disclose the method of claim 1, McDonnell discloses wherein the wireless short-distance communication network identification signal includes information selected from the group consisting of: an internet protocol address, GPS location, a location identification tag, points of interest, venue capacity, venue size, and category (P.0021, lines 1-6; P.0028, lines 10-17).

Regarding claim 4, the combination of McDonnell and Fuchs disclose the method of claim 1, McDonnell discloses wherein generating the wireless network information comprises: associating a GPS coordinate with the detected wireless short-distance communication network identification signal (P.0033, lines 1-9; the mobile device can determine its own location and associate it with the

presence signal received from the portal, e.g. business premises); and storing the wireless short-distance communication network identification signal and the associated GPS coordinate (P.0030).

Regarding claim 5, the combination of McDonnell and Fuchs disclose the method of claim 4, McDonnell discloses wherein the GPS coordinate is based on the location of the telematics unit at the time of reception (P.0033, lines 3-9).

Regarding claim 6, the combination of McDonnell and Fuchs disclose the method of claim 4, McDonnell discloses wherein the GPS coordinate is included within the at least one wireless short-distance communication network identification signal (P.0028, lines 1-17; location of the portal is transmitted in a wireless short-distance signal to the mobile device).

Regarding claim 7, the combination of McDonnell and Fuchs disclose the method of claim 1, McDonnell discloses wherein the at least one wireless short-distance communication network identification signal is selected from the group consisting of: radio frequency identification data, a short message service signal, an IEEE 802.11 standard compliant signal, and a Bluetooth compliant signal (P.0020, lines 3-7).

Regarding claim 8, the combination of McDonnell and Fuchs disclose the method of claim 1, McDonnell discloses wherein communicating the generated wireless network information to a service provider comprises: detecting a wireless network information upload trigger; and initiating a wireless network information transmission to the service provider responsive to the detected wireless network information upload trigger (P.0038, lines 1-6; the upload trigger is the detection of collected information or the detection of the termination of a period for collecting information from a number of portals).

Regarding claim 10, the combination of McDonnell and Fuchs disclose the method of claim 8, McDonnell discloses further comprising: transmitting the wireless network information to a service provider (P.0022, lines 5-9; P.0038, lines 1-6).

Regarding claim 11, McDonnell discloses a computer readable medium for operating a telematics unit within a mobile vehicle, comprising:

computer readable code for detecting at least one wireless short-distance communication network identification signal (Abstract, lines 1-12; P.0028, lines 1-11; as a user moves along the coverage zone of the portals, e.g. business premises the detects beacons signals from the portal that alert nearby compatible systems of their presence);

computer readable code for generating wireless network information based on the at least one detected wireless network identification signals (P.0028, lines 8-17); and

computer readable code for communicating the generated wireless network information to a service provider (Abstract, lines 9-16; P.0022; P.0028, lines 13-20; the programs of the wireless device forms the structured information, e.g. identity of the business, location of portal, and services available, and sends a message through the cellular subsystem to a database service system). McDonnell inherently has a "computer readable medium", given that McDonnell shows a process that would be implemented by a processor that requires a "computer readable medium", e.g. a RAM, to function.

However, McDonnell fails to disclose wherein the at least one wireless short distance network communication signal is detected at a vehicle system module which includes software and hardware components for operating, controlling or monitoring one or more vehicle systems, and the vehicle system module coupled to a vehicle communication bus.

Fuchs teaches an apparatus for integrating a personal communications system with a telematics device within a vehicle, which is known to deliver wide spectrum of information to vehicle-based subscribers (p.0001, lines 1-10). The telematics device is coupled to and integrated with the vehicle such as a car, bus, train, aircraft and the like, and includes a processor and algorithms for processing algorithms stored in the memory (p.0019) and is coupled to vehicle electrical bus to communicate and exchange data with at least one vehicle system (i.e. door-locking, comfort features, etc.) for controlling, operating, or configuring, communication status of at least one vehicle system. Also comprises a first wireless interface for communicating over a WAN network and a second wireless interface for communicating over a WLAN network (p.0024), and couples with a remote device (i.e. cellular phone, PDA, etc) and a communications node to integrate with a personal communications system (Fig. 1; p.0018).

Therefore, it would have been obvious to one having ordinary skill in the skill in the art, to modify McDonnell's invention with the teachings of Fuchs to integrate the user's wireless device with a telematics system for detecting and gathering information from beacons while a user is in a vehicle, because a vehicle will allow the travel across a wide area for gathering information in a short amount of time, and using the same system for in-vehicle and personal communications (p.0001-0003).

Regarding claim 12, the claim is rejected over the same reasons stated about claim 2, as it recites the same limitations of claim 2. See remarks about claim 2 above.

Regarding claim 13, the claim is rejected over the same reasons stated about claim 4, as it recites the same limitations of claim 4. See remarks about claim 4 above.

Regarding claim 14, the claim is rejected over the same reasons stated about claim 5, as it recites the same limitations of claim 5. See remarks about claim 5 above.

Regarding claim 15, the claim is rejected over the same reasons stated about claim 6, as it recites the same limitations of claim 6. See remarks about claim 6 above.

Regarding claim 16, the claim is rejected over the same reasons stated about claim 7, as it recites the same limitations of claim 7. See remarks about claim 7 above.

Regarding claim 17, the claim is rejected over the same reasons stated about claim 8, as it recites the same limitations of claim 8. See remarks about claim 8 above.

Regarding claim 19, the claim is rejected over the same reasons stated about claim 10, as it recites the same limitations of claim 10. See remarks about claim 10 above.

Regarding claim 20, McDonnell discloses a system for operating a telematics unit within a mobile vehicle, the system comprising:

means for detecting at least one wireless short-distance communication network identification signal (P.0023-0024; Short-range Wireless Transceiver);

means for generating wireless network information based on the at least one detected wireless network identification signals (P.0028, lines 1-17; Gatherer Program 26); and

means for communicating the generated wireless network information to a service provider (P.0025, lines 1-6; Cellular Radio Subsystem 22).

However, McDonnell fails to disclose wherein the at least one wireless short distance network communication signal is detected at a vehicle system module which includes software and hardware components for operating, controlling or monitoring one or more vehicle systems, and the vehicle system module coupled to a vehicle communication bus.

Fuchs teaches an apparatus for integrating a personal communications system with a telematics device within a vehicle, which is known to deliver wide spectrum of information to vehicle-based subscribers (p.0001, lines 1-10). The telematics device is coupled to and integrated

with the vehicle such as a car, bus, train, aircraft and the like, and includes a processor and algorithms for processing algorithms stored in the memory (p.0019) and is coupled to vehicle electrical bus to communicate and exchange data with at least one vehicle system (i.e. door-locking, comfort features, etc.) for controlling, operating, or configuring, communication status of at least one vehicle system. Also comprises a first wireless interface for communicating over a WAN network and a second wireless interface for communicating over a WLAN network (p.0024), and couples with a remote device (i.e. cellular phone, PDA, etc) and a communications node to integrate with a personal communications system (Fig. 1; p.0018).

Therefore, it would have been obvious to one having ordinary skill in the skill in the art, to modify McDonnell's invention with the teachings of Fuchs to integrate the user's wireless device with a telematics system for detecting and gathering information from beacons while a user is in a vehicle, because a vehicle will allow the travel across a wide area for gathering information in a short amount of time, and using the same system for in-vehicle and personal communications (p.0001-0003).

3. **Claims 9 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonnell et al. in view of Fuchs et al., and further in view of Lupien (US 6,006,091).

Regarding claim 9, the combination of McDonnell and Fuchs disclose the method of claim 9, however fails to disclose wherein the upload trigger comprises receiving a wireless network information request and processing the wireless network information request to identify the wireless information upload trigger.

Lupien teaches a method for a method for informing a network of a mobile terminal's capabilities, by the mobile terminal receiving a message from the network requesting information about the mobile terminal capabilities and followed the mobile terminal transmits a capability report

to the network (abstract, lines 1-12; col.4, lines 51-61). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, for an upload trigger to comprise receiving a wireless network information request and processing the request for identifying the upload trigger as suggested by Lupien, because an information request defines a time at which information contained in the mobile terminal is needed by the network.

Regarding claim 18, the claim is rejected over the same reasons stated about claim 9, as it recites the same limitations of claim 9. See remarks about claim 9 above.

(10) Response to Argument

(a) Appellant's arguments with regard to the rejections 35 U.S.C. 103(a) rejections over McDonnell in view of Fuchs have been fully considered, but they are not deemed to be persuasive for at least the following reasons.

Appellant argues (see Argument A – pages 10-11) that there can be no motivation to combine a method for gathering information from short-range wireless portals and an integrated personal communications system; and further, that the Examiner has not properly established by citing to any express or implied teachings in either McDonnell or Fuchs, as neither reference, alone or in combination, provides any such teaching.

Furthermore, that the cited motivation – "to integrate the user's wireless device with a telematics system for detecting and gathering information from beacons while a user is in a vehicle, because a vehicle will allow the travel across a wide area for gathering information in a short amount of time, and using the same system for in-vehicle and personal communications" (p. 3 of the March 14, 2006 office action) - fails to find support in the references.

In response to Apellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, McDonnell teaches a mobile device provided with a short range wireless receiver to collect information about services from short range wireless portals (i.e., wireless short range signals) (Abstract). It is well known in the art that mobile devices such as cellular/wireless telephones, pagers, PDA's are very common and provide high portability to their users, which implies that mobile devices such as cellular/wireless telephones can be found in vehicles.

And, in a similar field of endeavor, Fuchs teaches a method that integrates personal communications devices with a telematics device that is coupled to a vehicle system (i.e., vehicle system module) since there is an increasing demand for wireless subscribers to have access to information at any time and at any place and also the subscribers have the desire to be able to control mechanical and electronic devices of a vehicle through their subscriber's personal wireless device (paragraphs [0001]-[0003]).

Therefore, one of ordinary skill in the art at the time of the invention would have been motivated to combine the teachings of McDonnell and Fuchs, since such a combination would provide the integration of personal wireless devices with a telematics and vehicle system so that the user can gather information about services at any time and at any place and furthermore, be able to control and monitor vehicle related features from their personal wireless devices.

Furthermore, one of ordinary skill in the art would recognize that the integration of the wireless device of McDonnell's invention with a vehicle would be advantageous, at least for the following reasons.

The gathering of information at a vehicle wireless communication system would allow the user to travel to more geographical locations in a shorter amount of time (compared to walking), and collect more information from portals potentially resulting in more incentives for the user since the user gets rewarded by the amount of information collected and successfully entered to the database system (paragraph [0032]).

(b) Appellant's arguments with regard to the rejections 35 U.S.C. 103(a) rejections over McDonnell in view of Fuchs, and further in view of Lupien have been fully considered, but they are not deemed to be persuasive for at least the following reasons.

Appellant argues (see Argument B – pages 12-13) that claims 9 and 18 each require detecting a wireless network information upload trigger, and initiating a wireless information transmission to the service provider responsive to the detected wireless information upload trigger, and the Examiner relies on Lupien for these teachings but according to the Appellant there is no motivation to combine the teachings of either McDonnell or Fuchs. Specifically, the Appellant argues that none of the three references teach or suggest the motivation suggested by the Examiner-defining a time at which information contained in the mobile terminal is needed by the network (p. 9 of March 14,2006 office action) since at most, McDonnell teaches or suggests that the information can be either uploaded immediately or at a later time, but not defining the time, or receiving a wireless network information request and processing the wireless network information request to identify the wireless network information upload trigger as claimed.

In response to Apellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, McDonnell, paragraph [0038] lines 1-6, teaches that the information can either be uploaded immediately or simply collecting information over a period from a number portals and upload it all at once (i.e., later time).

And, in a related field of endeavor, Lupien teaches that a mobile terminal sends to the cellular network a capability report including the information requested in response to a capability request message (i.e., upload trigger) sent by the network (Abstract), therefore, since the information is requested by the network, it is implied that the information is either required or needed at the time the information is requested.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify McDonnell to upload the collected information to the network in response to detecting an upload trigger, as suggested by Lupien, since such a modification would have the advantage for the network to receive the collected information from the wireless devices when required/needed as evident by the information request message, furthermore, it would control the uploading of information from wireless devices, so as to avoid that a plurality of wireless devices upload the information at the same time, which could contribute to the network loading.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Marisol Figueroa

Conferees:

Lester Kincaid

Nick Corsaro

NICK CORSARO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER